

STATE OF VERMONT

HUMAN SERVICES BOARD

In re) Fair Hearing No. 14,366

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Appeal of)

INTRODUCTION

The petitioner appeals the decision by the Department of Social Welfare terminating her family's medicaid and Dr. Dynasaur benefits because of excess income. The issue is whether the Department's decision is in accord with the pertinent regulations.

FINDINGS OF FACT

The petitioner lives with her husband and their children. The petitioner's husband is employed and averages about \$675 a week in gross earnings. The petitioner does not dispute the Department's determination as to the amount of the family's gross income. Based on the family's income the Department determined that petitioner and her husband were ineligible for medicaid and that their children were ineligible for Dr. Dynasaur⁽¹⁾ until they had met a sizeable "spenddown" amount within the six months following the effective date of the Department's decision in this matter. The petitioner does not dispute the Department's calculations. She is understandably concerned, however, because she and her husband have ongoing medical problems and incur high medical bills each month for prescription medications and other medical treatment; and the household's income is probably not sufficient to pay the "spenddown" amount toward these costs and still meet its other necessary household expenses. At the hearing, the hearing officer and the Department advised the petitioner and her husband of their possible eligibility for general assistance (GA) if she is without resources to meet a medical emergency in her family. They were also advised to promptly notify the Department of any changes in their income.

ORDER

The Department's decision is affirmed.

REASONS

The regulations provide for medicaid eligibility for persons who have excess income in the following circumstances:

A person who passes all eligibility tests, except that his or her Medicaid group's monthly income is more

than any of the income tests for which he/she may be eligible (see P-2420 B⁽²⁾) may qualify for Medicaid coverage. To do so, he or she must show that his or her Medicaid group has paid or incurred medical expenses . . . at least equal to the difference between its countable income and its Protected Income Level. This difference is called the "spend-down" requirement. Note that a person who does not pass any of the other applicable income tests must spend down to the Protected Income level and is not permitted to spenddown to any of the higher income tests.

Medicaid Manual § M402.

In this case the record is clear that the Department correctly calculated the petitioner's income and deductions and correctly applied the above regulation to the petitioner's situation. It is also clear that despite her husband's relatively good income, the petitioner is facing a difficult financial situation due to her and her husband's medical conditions and their high expenses for medical treatment and maintaining their household. Unfortunately, however, the medicaid regulations do not make any special allowances for such situations. The family's income, though probably not sufficient to pay these medical expenses and maintain the family's current (albeit, seemingly modest) lifestyle, is nonetheless far in excess of the standards for medicaid (see supra) and well in excess of the maximum for Dr. Dynasaur (see W.A.M. § 3001.32). The Board is, therefore, bound by law to affirm the Department's decision. 3 V.S.A. § 3091(d) and Fair Hearing Rule No. 17.

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1. The income eligibility guidelines for the Dr. Dynasaur program are less stringent than for medicaid, but the petitioner's income is considerably higher than the maximum even for this program.
2. The "Protected Income Level" for a two-person family is \$691.00 a month.